



## State of Utah Department of Commerce

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### FOR IMMEDIATE RELEASE

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### **Settlement Reached in Public Pension Fund Investigation**

The Utah Department of Commerce, Division of Securities announced a settlement of allegations stemming from the Division's investigation involving Richard L. Cherry, former Chief Investment Officer (CIO) of the Utah Retirement Systems (URS). An investigation commenced after the Office of the Utah Legislative Auditor General released a report that revealed potential violations of the Utah Uniform Securities Act by Cherry.

The Division found that Cherry violated the Utah Uniform Securities Act by engaging in insider trading and by acting as an unlicensed investment adviser representative. The Division concluded that Cherry, while employed as the CIO of URS, engaged in numerous personal trades in the same securities that URS fund managers were purchasing on behalf of URS. Among the trades that Cherry executed for himself and his private advisory client were shares in Digimarc Corporation, Pixelworks Inc., and Align Technology. Trading records revealed that Cherry purchased shares in these companies shortly before URS purchased significant positions in the companies. URS purchases comprised a large percentage of the total daily trading volume and had the potential to increase the market price of those stocks. This practice is a form of insider trading and is known in the securities industry as "front running." Cherry was also able to share indirectly in the profits from trading in his private advisory client's account because his client was charged an advisory fee.

The Division found that during Cherry's tenure as the CIO of URS, he also was employed with Century Funds Management as an investment adviser representative. However, the Division's investigation revealed that Cherry was not licensed in Utah while working with Century. Cherry admitted to having managed approximately 16 accounts while employed at Century. As part of the settlement, Cherry was fined \$17,000 and barred from associating with any licensed investment adviser or supervising any licensed investment adviser representative or broker-dealer agent in Utah.

In a related action, the Division filed charges against Century Funds Management Inc. and F. James Cowan. The Division alleged that Century operated as an investment adviser or federal covered adviser in Utah without licensing or notice filing, Cowan acted as an investment adviser representative without a license, and Century employed unlicensed investment adviser representatives. The Division is seeking censures and fines.

The Division acknowledges the assistance and cooperation of the Office of Utah Legislative Auditor General and the U.S. Securities & Exchange Commission during the course of the investigation.